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MINE Update
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This Week in The News

After a frenetic week that saw President Donald Trump's second impeachment acquittal, Congress recessed for President's Day and all eyes turned to Texas where the power grid is in crisis. Wrangling continued behind the scenes on a major COVID relief package that is expected to pass by mid-March. The National Mining Association (NMA) remains focused on advancing mining's interests at both ends of Pennsylvania Avenue. Plus we have updates on how mining and energy markets are faring.

Safety Share

Centers for Disease Control offered [new guidance on using masks](#) to prevent COVID-19 transmission.

EPA Seeks Carbon Regulation Clarity

On February 12, 2021, the U.S. Environmental Protection Agency (EPA) filed a [motion](#) or a partial stay of the mandate in the Affordable Clean Energy (ACE) litigation, asking the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) to leave the Clean Power Plan (CPP) repeal in place, but allow vacatur of the ACE rule and the deadline extensions to become effective. Since the D.C. Circuit's ruling, there has been confusion as to the status of the CPP given that the court did not expressly address its effectiveness, the Supreme Court stay of the CPP ended during the reconsideration process, and important state deadlines in the CPP had already passed. In its motion, EPA explains that it "understands the Court's decision as leaving neither the CPP nor ACE, and thus no CAA section 111(d) regulation, in place with respect to [greenhouse gas] emissions from [electric generating units]." EPA makes clear that it is seeking a blank slate on which to write a new rule. Notably, EPA included a declaration from Joe Goffman, EPA's Principal Deputy Assistant Administrator and Acting Assistant Administrator for the Office of Air, pointing out that the CPP goals have already been exceeded, state deadlines have long passed, and significant changes to the CPP's compliance schedule would be required if that rule were to become effective again. While this motion may complicate chances of a successful petition to the Supreme Court, it also ensures states are not required to continue implementing ACE or begin implementing the CPP. Separately, EPA sent a [letter](#) to the regional administrators also making it clear that states have no current obligations. The NMA is coordinating with state and industry allies on options for Supreme Court review.

Court Decision Risks of 10 Million Acre Sage Grouse Withdrawal



The U.S. District Court for the District of Idaho last week issued a [decision](#) that vacated the Bureau of Land Management’s (BLM) 2017 cancellation of the proposed withdrawal of 10 million acres identified as “Sagebrush Focal Areas” (SFA) in six western states from location and entry under the Mining Law.

The decision does not immediately reinstitute the withdrawal but remands the matter to BLM for consideration of whether the withdrawal is needed for sage grouse conservation. The court further directs BLM to reinitiate the National Environmental Policy Act (NEPA) process to evaluate the environmental impacts of a withdrawal.

The plaintiffs argued that BLM’s decision that the withdrawal was “no longer needed” to conserve sage grouse was arbitrary and capricious under the Administrative Procedure Act, that BLM failed to offer a reasoned explanation for reversing its prior position and entirely failed to consider significant benefits of the withdrawal. The judge agreed that, in changing its position, BLM disregarded prior expert and agency findings about the need for the withdrawal. Further, the judge found unconvincing BLM’s assertions that the cancellation was based on new data including the relatively small footprint of mining within the SFAs, noting that much of the data was available to the agency at the time of the withdrawal and citing cumulative impacts of mining.

The NMA will be engaging with BLM as the agency determines how it will respond to the court decision. Furthermore, the NMA will review and refresh all of our advocacy materials to be prepared to fight against any new proposed withdrawal.

Key Senate Staff Speaks to NMA's Government Affairs Committee



Mary Frances Repko, staff director for the U.S. Senate Environment and Public Works Committee (EPW), spoke to the NMA's Government Affairs Committee this morning about Chairman Tom Carper's (D-Del.) priorities for the committee this Congress. Repko is a veteran Capitol Hill staffer having worked for previous congressional leaders including Senate Commerce Committee Chairwoman Maria Cantwell (D-Wash.), EPW Chairmen Jim Jeffords (I-Vt.) and Barbara Boxer (D-Calif.), and House Majority Leader Steny Hoyer (D-Md). Repko described Chairman Carper's recent meeting with President Biden where the President wants EPW to be center stage for infrastructure legislation, and the EPW committee plans its first hearing on February 24 to focus on elements of the upcoming Senate highway and infrastructure building bill. Repko also outlined that the EPW Committee's next few hearings will include a nomination hearing for CEQ Chairwoman designate Brenda Mallory on March 3, a hearing examining a carbon neutral power sector by 2035 on March 10, and a hearing focusing on investments in water infrastructure on March 24.

Accelerating Carbon Capture: 45Q Tax Credit

Yesterday, Representatives David B. McKinley, P.E., (R-W.Va.) and Marc Veasey (D-Tex.) reintroduced [H.R. 1062](#), the Accelerating Carbon Capture and Extending Secure Storage through 45Q (ACCESS 45Q) Act. This bipartisan legislation provides a direct pay option and extends the date for projects to begin construction to claim the 45Q tax credit for carbon dioxide sequestration by ten years.

A statement from the NMA was included in the sponsors' [press release](#): "There is a consensus among international experts that a massive increase in the deployment of carbon capture technology is needed to meaningfully reduce global emissions. That simply will not happen here in the U.S. without smart legislation like Rep. McKinley's ACCESS 45Q, which builds on the existing broad bipartisan Congressional support for carbon capture utilization and storage."

Updated Senate Committee Assignments

Senate Appropriations Committee Chairman Patrick Leahy (D-Vt.) and Vice Chairman Richard Shelby (R-Ala.) Friday announced the majority and minority Chairmen, Ranking Members, and subcommittee rosters for the 117th Congress.

Sen. Martin Heinrich (D-N.M.) is joining the committee majority for the 117th Congress. Republican Sens. Mike Braun (Ind.) and Bill Hagerty (Tenn.) are replacing Sens. Steve Daines (Mont.) and James Lankford (Okla.) on the committee.

Nine of 12 subcommittee chairs will be new leaders on their respective panels; they did not serve as ranking members on the subcommittee panels last congress. The minority identified three new ranking members to their respective panels. Subcommittee leadership with jurisdiction over issues important to the mining industry are as follows:

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Tammy Baldwin (D-Wis.), Chair

John Hoeven (R-N.D.), Ranking Member

Energy and Water Development

Dianne Feinstein (D-Calif.), Chair

John Kennedy (R-La.), Ranking Member

Interior, Environment, and Related Agencies

Jeff Merkley (D-Ore.), Chair

Lisa Murkowski (R-Alaska), Ranking Member

Labor, Health and Human Services, and Education, and Related Agencies

Patty Murray (D-Wash.), Chair

Roy Blunt (R-Mo.), Ranking Member

The Senate Appropriations subcommittee chairmen, ranking members, and subcommittee rosters, with members listed in order of subcommittee seniority, for the 117th Congress are available [here](#).

EPA Registers Copper Surfaces for Residual Use Against Coronavirus



Last week the EPA [granted an amended registration](#) to the Copper Development Association (Association) to allow an emerging viral pathogen claim to be added to labels of Antimicrobial Copper Alloys Group 1, marking the first time a product with residual claims against viruses to be registered for use nationwide. The amendment follows testing, supported by the Association, which demonstrated copper alloys made of at least 95.6 percent copper can continuously kill viruses that come into contact with them. Based on testing against harder-to-kill viruses, EPA expects these products to eliminate 99.9 percent of SARS-CoV-2, the virus that causes COVID-19, within two hours. The amendment also allows previously registered products to make label changes that state the product claims, uses, and directions.

This is welcomed news and benefits the NMA's ongoing efforts to support the deployment of antimicrobial surface materials in healthcare facilities. Last May, the NMA coordinated bipartisan outreach from the [House](#) and [Senate](#) to then-Health and Human Services Secretary Azar urging COVID-19 relief funds to be used for the purchase of antimicrobial surface materials in high-touch areas in hospitals and other healthcare facilities.

NMA and Third-Party Voices

Rich Nolan is quoted in [Bloomberg's](#) coverage of the grid crisis in Texas highlighting the ongoing need for fuel diversity to ensure the reliability of the grid.

The [Associated Press](#), [Washington Post](#), [Minneapolis Star Tribune](#), [ABC 27](#), [KMOV 4](#) and [10 Boston](#) all quote the NMA in their coverage of a federal judge's ruling last week overturning a Trump administration action that opened to mining 10 million acres of land that had previously been withdrawn for sage grouse conservation.

The [Reno Gazette Journal](#) (NV), [Fort Myers News Press](#) (FL), [Naples Daily News](#) (FL), [MSN.com](#) (NAT), [County 17 News](#) (WY), [Pottstown Mercury](#) (PA), [Exton Daily Local](#) (PA), [Swarthmore Times Herald](#) (PA), [Lansdale Reporter](#) (PA), [Delaware County Daily Times](#) (PA), [Phoenixville News](#) (PA), [Mainline Media News](#) (PA), [Elkhart Truth](#) (IN) and [Roanoke Times](#) (VA) carry an op-ed by Terry Jarrett, an energy attorney and consultant

who has served on both the board of the National Association of Regulatory Utility Commissioners and the Missouri Public Service Commission, in which he argues that coal is necessary during extreme weather conditions.

[Inside Sources](#) (DC) carries an op-ed by Syd Peng, Charles E Lawall Chair of Mining Engineering emeritus in the Department of Mining Engineering at West Virginia University, in which he argues that closing coal plants is being done prematurely to make money off of ratepayers.

[Duluth News Tribune](#) (MN) and [Gillette News Record](#) (WY) carry an op-ed by John Interval, Professional and Certified Petroleum Geologist practicing for over 33 years as an expert Appalachian Basin Exploration and Developmental Geologist, in which he argues we must reshore industries and end American mineral dependence.

[Duluth News Tribune](#) (MN) carries an op-ed by Michael Stumo, CEO of the Coalition for a Prosperous America, in which he argues the minerals required for our energy and infrastructure needs should be mined in the U.S.

Mining and Energy News

The Wall Street Journal's editorial board published: "A deep green freeze: Power shortages [show the folly](#) of eliminating natural gas – and coal."

A *Forbes* contributor opined: "This blizzard [exposes the perils](#) of attempting to 'electrify everything.'"

[Argus Media reported](#) that the Midcontinent Independent System Operator Midwest power region's coal burn was at 2-year high on February 8 as margins climb with the arctic cold temperatures in the region.

[Argus Media reported](#) that coal generation in the Electric Reliability Council of Texas power region reached a four-month high in January as natural gas prices continued to

climb.

[Yahoo! Finance](#) reported on release of the report "Coal Global Market Report 2021: COVID 19 Impact and Recovery to 2030." The report projects that the global coal market will reach \$786.6 billion this year, up 11.5%. The report also expects the coal market to grow 5% in 2025, reaching \$962.9 billion.

Argus Media (subscription, 2/12/21) reported that U.S. coal-based power plant retirements will ease this year relative to reductions taken since 2015.

[Axios](#) reported U.S. coal production is still slated for a bounce-back from the pandemic lows, but it may be smaller than federal analysts previously thought.

[Green Car Congress](#) reported on a European Commission's Joint Research Centre Roskill study on nickel supply and demand through 2040 indicating that Europe may be at risk of a shortage on nickel.

[The Silver Institute reported](#) that "Against an improving macroeconomic backdrop, the main segments of silver demand are expected to rise this year. Led by industrial and physical silver investment, global silver demand is expected to achieve an eight-year high of 1.025 billion ounces in 2021."

[Power Magazine](#) reported that "Honeywell is gearing up to reopen the Metropolis Works plant in Metropolis, Illinois—the U.S.'s sole uranium conversion facility—and restart production of uranium hexafluoride (UF₆) by early 2023."



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