

[View this email in your browser](#)



**MINE** Update  
MINING INDUSTRY NEWS E-COMM UPDATE

---

Issue 40 | July 21, 2021

Brought to you by the National Mining Association

---

## **This Week in The News**

Bipartisan congressional negotiators continued high stakes jockeying over the details for advancing infrastructure legislation that appears to be now drifting into next week with more major impactful legislation coming through the partisan budget reconciliation process that is just around the corner. The National Mining Association (NMA) remains focused on actively engaging to advance mining's interests at both ends of Pennsylvania Avenue. Plus we have updates on how the mining and energy markets are faring.

## **Safety Share**

The U.S. Mine Safety and Health Administration (MSHA) noted that, so far this year, nine miners have died and 185 have been injured in accidents involving powered haulage equipment such as shuttle cars, scoops, locomotives, front end loaders and more. Year to date, this is the highest number of powered haulage fatalities since 2006. Yesterday, MSHA enforcement staff visited mines to meet with miners and operators to emphasize the need for adhering to best safety practices for powered haulage, vehicle rollovers, and miner training to reduce fatalities and injuries. MSHA also published [guidance and other resources](#) intended to help miners, mine operators and contractors prevent accidents caused by working with, on or near powered haulage equipment.

---

## **NMA Backs Bipartisan Federal Permitting Improvement Steering Council Reauthorization to Attach to Infrastructure**

Last week, a group of bipartisan senators, led by Sens. Rob Portman (R-Ohio) and Kyrsten Sinema (D-Ariz.), introduced the Federal Permitting Reform and Jobs Act ([S. 2324](#)), a bill that would reauthorize the Federal Permitting Improvement Steering Council ([FPISC](#)). The Council was created in the 2015 congressional infrastructure bill in the Fixing America's Surface Transportation Act (FAST-41). Last year FPISC at the request of the NMA not only voted to include all mining as a new covered sector for expedited permitting, but [finalized federal regulations](#) securing mining as a [covered sector](#).

In a [press release](#) from the Senate Homeland Security and Government Affairs Committee, NMA CEO and President Rich Nolan is quoted, saying that the legislation, “provides the leadership Washington needs to sustain momentum to reduce the barriers to creating good, American jobs, reshoring critical supply chains and investing in the infrastructure the nation so clearly needs. Now is the moment to double down on American infrastructure and this bill is a key part of doing just that.” The NMA will continue to monitor progress on the bill and encourage continued bipartisan support for this important legislation. The NMA is working to have the bill added to the bipartisan infrastructure legislation moving through the Senate by the end of the month.

---

## NMA Coalition Victory Defending NWPR

Last week, the NMA's industry coalition secured an important victory in the District of South Carolina to keep the 2020 Navigable Waters Protection Rule (NWPR) in place while the agencies reconsider the rule. The court granted the government's motion to remand the NWPR to the agencies without vacatur, and dismissed the environmental groups' lawsuit. The NMA's coalition intervened in this lawsuit and supported the government's motion. The environmental groups urged the court to vacate the rule, which would have caused widespread uncertainty and confusion for regulated entities. While this decision does not directly impact the few cases that are not in abeyance, the remand in this case will likely be helpful in other cases to support remand without vacatur.

---

## House Subcommittee to Hold Mining Law Oversight Hearing



**NATURAL RESOURCES**  
C O M M I T T E E

The House Natural Resources Subcommittee on Energy and Mineral Resources will hold an [oversight hearing](#) related to the General Mining Law on Tuesday, July 27, at 10:00

a.m. ET. Please find a link to the hearing notice [here](#). The hearing, entitled “The Toxic Legacy of the Mining Law of 1872,” is expected to focus on the tenets of Chairman Raul Grijalva’s (D-Ariz.) Hardrock Leasing and Reclamation Act, including alleged environmental deficiencies in mining regulations, the conversion from a locatable to a leasing system, and the establishment of a royalty to fund Abandoned Mine Land cleanup activities. Additional focus could include the Chairman’s request to the Administration to reform the regulations surrounding the General Mining Law.

The hearing will consist of one panel of witnesses. Testifying on behalf of the majority will be Samuel Penney, Chairman of the Nez Perce Tribal Executive Committee; Kathy Bancroft, Tribal Historic Preservation Officer at the Lone Pine Paiute–Shoshone Reservation; Paolo Natali, Principal, Climate Intelligence, RMI; and Lauren Duncan, Abandoned Mine Restoration Project Manager, Trout Unlimited and Member of the Colorado Mined Land Reclamation Board. In an unusual move, the Minority was granted two witnesses: Jim Cress, Counsel with Bryan Cave Leighton Paisner; and Debra Struhsacker, Environmental Permitting and Government Relations Consultant and Women’s Mining Coalition Board Member. In advance of the hearing, the NMA has continued to engage with both Republican and Democratic offices on the committee and provided materials including the NMA hardrock member-developed Mining Law Principles, as well as other materials related the efficacy of existing hardrock mining regulations and the need to strengthen domestic mineral supply chains. The NMA will continue this outreach and monitor additional developments related to Chairman Grijalva’s efforts to amend the Mining Law and regulatory changes.

---

## **First Application of Supreme Court's Maui Functional Equivalent Test in Court Regarding NPEDES Permits for Groundwater**

On July 15, 2021, the U.S. District Court for the District of Hawaii [granted](#) summary judgment in favor of environmental groups in a longstanding dispute about whether the

County of Maui's wastewater treatment facility required a National Pollutant Discharge Elimination System (NPDES) permit. After considering the facts of the case and balancing the factors set forth by the Supreme Court, the court concluded that "[t]he discharge from the County's injection wells into the groundwater and ultimately into the ocean is the functional equivalent of a direct discharge such that it triggers the NPDES permit requirement." This ruling is important because it is the first in which a court has applied the Supreme Court's *Maui* "functional equivalent" test. Given the very fact-specific nature of the court's analysis of the *Maui* factors, it is difficult to predict how other lower courts may use this ruling as a model for their own *Maui* analyses. For more details on the Court's analysis, please review the [NMA's memo](#).

---

## NMA Host Ranking Subcommittee Member on Energy and Minerals Congressman Pete Stauber



This week the NMA hosted Rep. Pete Stauber (R-Minn.) in our offices in Washington, D.C. The congressman represents Minnesota's Iron Range and serves as the new ranking member of the House Natural Resources Subcommittee on Energy and Minerals. Earlier this month, NMA President and CEO Rich Nolan joined the congressman on a [panel discussion hosted by ConservAmerica](#) on the need for more efficient domestic mineral

and critical mineral production to meet new technology demands. Rep. Stauber is the author of the [Accessing American Critical Minerals Act](#) and an enthusiastic advocate for domestic mining. He is a great ally in Congress for the mining industry, and the NMA appreciates his receptivity and partnership on issues critical to the coal and hardrock mining industries.

---

## **DOD Releases 2021 Report on Strategic and Critical Minerals Stockpile Requirements**



### **Strategic and Critical Materials 2021 Report on Stockpile Requirements**

The Department of Defense recently released a report assessing strategic and critical materials stockpiles, including gaps and vulnerabilities in the supply chains for such materials. The report was developed pursuant to language the NMA was successfully able to draft and include in Section 851 of the H.R. 6395, the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for FY 2021, requiring the Secretary of Defense to report on the state of the domestic supply chain, economic importance, risks associated with and availability of various critical minerals. A copy of the report can be found [here](#). The NMA is still analyzing the full report but will provide additional updates to the Minerals Policy Task Force on relevant items and utilize the information provided to

advocate for minerals permitting reform and securing domestic mineral supply chains for key industries, including defense, energy, infrastructure, and manufacturing.

---

## **House to Begin Floor Consideration of Funding Bills**

The House is planning to bring to the floor a seven bill spending package the week of July 26. The package will include the Energy-Water, Labor-HHS-Education, and Interior-Environment appropriations bills. Detailed memorandums on the bills are available [here](#) and [here](#).

The Rules Committee will meet early next week to grant a structured rule for floor consideration of the measure. Amendments under consideration must be submitted by Wednesday, July 21. The Majority has said it hopes to pass all of its appropriations bills by the end of the month, before the traditional August recess. But the Senate has yet to make significant progress on its measures. Therefore, Congress is widely expected to pass a continuing resolution to fund the federal government and avert a shutdown before the fiscal year ends September 30.

---

## **Senate Committee to Consider BLM and DOE Nominations**



On Thursday, July 22, at 9:30 a.m. ET the Committee on Energy and Natural Resources will hold a full committee [business meeting](#) to continue the consideration of Tracy Stone-Manning to be Director of the Bureau of Land Management; Samuel Walsh to be General Counsel, Department of Energy (DOE); Andrew Light to be an Assistant Secretary of Energy (International Affairs); Shalanda Baker to be DOE’s Director of the Office of Minority Economic Impact; and Robert Anderson to be Solicitor of the Department of the Interior. The meeting will be streamed live on the committee’s website.

Stone-Manning’s nomination continues in partisan deadlock because of her involvement with an activist environmental group in the 1980s, which Republican committee members, led by Ranking Member John Barrasso (R-Wyo.), have [called](#) an “eco-terrorist” organization. Both Chairman Joe Manchin (D-W.Va.) and the White House have publicly endorsed her. Stone-Manning is currently an associate vice president for public lands at the National Wildlife Federation. She was previously the state of Montana’s director of environmental quality and a staff director and senior advisor to Sen. John Tester (D-Mont.)

---

## NMA and Third-Party Voices

[In a new blog](#), the NMA's Rich Nolan discusses rising cyberattacks on energy infrastructure and the security provided by coal.

[ASH at Work](#) carries an interview with Rich Nolan on the outlook for coal (page 53).

The NMA is quoted in a [Politico Pro](#) report noting that senators from the leading coal-mining states have reached an agreement to renew the soon-to-expire fee coal companies pay to clean up abandoned mines. The NMA is mentioned in a second [Politico Pro](#) story on the same topic, covering the news that the Senate Energy and Natural Resources Committee advanced an unprecedented \$3 billion program to clean up abandoned hardrock mines.

The NMA is quoted in a story from [Politico Pro](#) on U.S. coal production's decline last year to its lowest level since 1965, as the pandemic slowed demand for the fuel.

From our third parties, [RealClearEnergy](#) (D.C.) carries an op-ed by Dan Ervin, a professor of Finance in the Perdue School of Business at Salisbury University, calling for the U.S. to double down on advancing CCUS for global climate leadership.

And [Inside Sources](#) (D.C.) carries an op-ed from Jim Constantopoulos, professor of geology at Eastern New Mexico University, in which he argues the U.S. must deliver globally replicable emissions solutions with renewable energy and emissions-free fossil fuel technology.

---

## Mining and Energy News

[E&E reported](#) that experts are saying that critical minerals supply chains must be improved to make the U.S. more competitive with China on EVs and other green technology, and that a key strategy is fostering more mineral processing plants and refineries.

[Axios](#) reported that the biggest known problem companies and countries are facing now for climate is how to source the critical minerals needed for batteries that will be used to power electric cars, planes, energy storage devices, and more.

[Mining.com](#) reported that a new report by Roskill that states the competition for controlling lithium-ion (li-ion) batteries production has intensified globally, with continuous announcements made regarding the build-out of new li-ion battery plants and/or capacity expansion.

[Utility Dive reported](#) on a Department of Energy initiative to reduce the cost of utility-scale, long-duration lithium-ion energy storage by 90 percent within a decade to bolster a grid powered by renewable energy.

[S&P Global](#) reported that the Department of Energy thinks the U.S. could eventually become a net exporter of the rare earth materials crucial to making an array of products, including many electronics, wind turbines, energy storage devices and electric vehicle batteries.

[The Rolla Daily News](#) reported that clean energy may result in the opening or expanding of mines to unearth minerals such as cobalt for use in alloys and batteries, tellurium for solar cells and semiconductors, and germanium for transistors in electronic devices.

AZO Cleantech profiled prospects for [sustainable lithium production](#).

Wood Mackenzie predicted a [commodities supercycle](#) is coming, “but it will be different this time.”

The [Washington Examiner](#) and [Politico Pro](#) both reported that the International Energy Agency (IEA) projects a 5 percent rise in power demand in 2021, with almost half of the increase met by fossil fuels, including coal. And [Argus Media](#) reported that demand will grow to an all-time high in 2022.

[The Energy Information Administration’s recent Today in Energy release](#) reported that “coal production totaled 535 million short tons (MMst) in 2020, a 24 percent decrease

from the 706 MMst mined in 2019 and the lowest level of coal production in the U.S. in any year since 1965.”

[Argus Media reported](#) that natural gas accounted for more than half of all unplanned power outages in Texas last month, far outdistancing renewables and coal, prompting the Electric Reliability Council of Texas (ERCOT) to ask customers to conserve power in mid-June. In other ERCOT news, ERCOT’s recent grid reliability [plan](#) could benefit coal and gas.

[Argus Media reported](#) that the Southwest Power Pool grid region is seeing coal-based generation so far this month at a 3-year high amid a drop in renewable generation, high natural gas prices and hot weather in the region.

Barron’s published: “Natural gas is rallying. Why prices are [likely to remain high.](#)”

Seeking Alpha reported natural gas prices defied the recent decline in oil prices and reached the [highest level](#) since December 2018.



*Copyright © 2021 National Mining Association, All rights reserved.*

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).