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MINE Update
MINING INDUSTRY NEWS E-COMM UPDATE

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This Week in the News

Although Congress approved a short-term continuing resolution to keep the federal government funded through December 3, the debt limit remains deadlocked and lawmakers failed to reach a high-stakes agreement on passing the Bipartisan Infrastructure Framework (BIF) and the giant reconciliation tax and spending package. Congressional leaders are now eyeing an Oct. 31 goal for those proposals while turning attention back to a more imminent need to raise the federal debt ceiling. While the political and policy situation remains intense, the National Mining Association (NMA) is focused on actively engaging to advance mining's interests at both ends of Pennsylvania Avenue. Plus, we have updates on how mining and energy markets are faring.

Safety Share

The change in seasons is upon us. National Safety Council has an easy [fall safety checklist](#).

NMA's Sweeney and Barrick's Haddock Testify at Senate ENR Mining Law Hearing



Yesterday, the Senate Energy and Natural Resources (ENR) Committee held a hearing to, “examine and consider updates to the Mining Law Of 1872.” Please find a link to the hearing video and witness testimony [here](#). On behalf of industry, the NMA’s Katie Sweeney and Rich Haddock, General Counsel at Barrick Gold Corporation, testified to the industry’s openness to a reasonable and fair, net, prospective royalty but strongly objected to the punitive Mining Law provisions contained within the House Natural Resource Committee’s partisan reconciliation bill. They also defended the Mining Law as an invaluable tool, enabling hardrock mining to be the front end of the supply chain for key sectors of the economy and thoroughly detailed the significant planning and capital investment that hardrock mining companies make to produce minerals. This was key to ensuring that the committee will be able to thoughtfully consider the scope of any new

royalty and fee structures on current or new operations. Other witnesses included David Brown, President and CEO at Wyo-Ben, Inc.; Chris Wood, President and CEO at Trout Unlimited; and Autumn Hanna, Vice President at Taxpayers for Common Sense. Please find a link to the NMA's memo on the hearing [here](#).

The hearing was well attended with 14 of 20 members of the committee. During the course of the hearing not only were the House Natural Resources mining provisions criticized by Republican senators, Senators Cortez Masto (D-Nev.) and Heinrich (D-N.M.) stated they opposed the levels of royalties contained in the House bill. Chairman Manchin (D-W.Va.) opened the hearing advocating for a royalty, and opened his questions with the witnesses saying, "this is all about the money." The only hostile questions for the mining witnesses came from Senator King (D-Maine) who asked about why a net royalty is necessary instead of a gross royalty and strongly questioned applying anything other than a gross royalty. In addition to providing testimony, the NMA worked extensively with bipartisan members of the committee and staff ahead of the hearing to provide background materials, relevant information and suggested questions for witnesses related to domestic hardrock mining, impacts of a royalty and "dirt tax," and the growing demand for metals and minerals from secure supply chains for key sectors of the economy. The NMA also [provided](#) supportive industry facts and messaging in real time throughout the hearing on the NMA's social media channels. This hearing will contribute to legislative work, whether in reconciliation legislation this year or future legislation addressing the Mining Law. The NMA will continue to work with the committee and interested senators to keep you informed as efforts to make changes to the Mining Law advance.

Prior to the hearing, which was covered live by C-SPAN and PBS, the NMA [issued a press release](#) in the morning and live Tweeted the full hearing.

[Politico Pro](#), [Mining.com](#), [Minnesota Reformer](#), [Iowa Capital Dispatch](#) and the [Nevada Current](#) all reported that, while there was agreement that the General Mining Law needs updating, senators of both parties at the hearing rejected House Democrats' plans to impose billions of dollars in royalties and other fees on mining.

[The Elko Daily Free Press \(Nev.\)](#) ran an op-ed from Katie Sweeney amplifying her

messages from the hearing, highlighting the counterproductive impacts of punitive taxes and fees on mining.

Congress Fails to Extend the Coal AML Program; AML Fee Drops

Last week, Congress passed a [continuing resolution](#) to fund the federal government through December 3, 2021, and due to ongoing negotiations on the Senate's bipartisan infrastructure bill that included the Coal Abandoned Mine Land (AML) reclamation fee, lawmakers over the weekend passed a separate [30-day extension](#) of surface transportation authorities that lapsed October 1. Language extending the AML reclamation fee was not included in either bill. The Senate [infrastructure bill](#) includes a \$11.3 billion in legacy abandoned coal mine reclamation. It also provides a 20 percent reduction in AML reclamation fees through a reauthorization of the AML program through 2034. In 2020, Coal producers paid over \$123 million in AML fees. The Office of Surface Mining and Reclamation and Enforcement (OSM) posted an acknowledgement on its [website](#) that the AML reclamation fee collection authority expired on September 30, 2021. Pursuant to the Surface Mining Control and Reclamation Act (SMCRA), coal operators must pay reclamation fees based on the calendar quarter no later than 30 days after the end of each quarter. Because the third quarter ended on September 30, 2021, AML reclamation fees are due no later than October 30, 2021. Congressional leaders continue to negotiate over the infrastructure and budget reconciliation packages. NMA members should be aware that any lapse in AML reclamation fees collected could be retroactively applied to capture the lost revenue. We will keep you advised on all further AML reauthorization legislation and provisions considered in Congress.

NMA Submits Comments on BLM's Review of Federal Coal Leasing Program

The NMA yesterday submitted [comments](#) in response to the Bureau of Land Management's (BLM) [notice of intent](#) to conduct a review of the Federal Coal Leasing Program, pushing back on the notion that wholesale changes to the Federal Coal Leasing Program are needed. Due to the similarity in issues addressed, the comments build upon the 2016 [comments](#) and [commissioned report](#) we submitted in response to efforts to prepare a programmatic environmental impact statement (PEIS) while new coal leasing was paused. The comments stress, among other things, that the royalty rate for federal coal ensures more than a fair return for taxpayers; that current climate and environmental impact reviews are effective; and that federal coal is vital to fulfilling the nation's energy needs. The comments also highlight the appropriate measures for coal valuation and defend the use of the lease-by-application method.

Council on Environmental Quality (CEQ) Takes First Steps to Undo NEPA Reforms



The Council on Environmental Quality (CEQ) today released the [pre-publication version](#) of its “phase 1” proposed rule to begin nullifying the Trump administration reforms of the National Environmental Policy Act (NEPA) regulations. Recall, earlier this year CEQ announced a two-phase process to address concerns regarding consideration of climate

change, environmental justice and enhanced public participation. The phase 1 rule focuses on three changes to the 2020 NEPA regulations: (1) restoring the requirement that federal agencies evaluate all relevant environmental impacts, including direct, indirect and cumulative impacts particularly when addressing climate change and impacts to “environmental justice” communities; (2) allowing agencies to develop and analyze alternative approaches, including those that will not meet the stated objectives of the proposed project; and (3) clarifying that while agency NEPA procedures need to be consistent with CEQ regulations, agencies have the discretion and flexibility to develop procedures beyond the CEQ’s requirements. The phase 2 rulemaking, expected in November, will propose broader changes to the 2020 NEPA regulations. A 45-day comment period will commence when the proposal is officially published in the Federal Register tomorrow.

Fish and Wildlife Revokes Migratory Bird Rule, Initiates Rulemaking

On October 4, 2021, the U.S. Fish and Wildlife Service (FWS) published a [final rule](#) revoking the January 7, 2021, regulation that limited the scope of the Migratory Bird Treaty Act (MBTA) as it related to incidental take. The FWS will return to implementing the MBTA as prohibiting incidental take and applying enforcement discretion. This revocation goes into effect Dec. 3, 2021. Simultaneously, the FWS issued a Director’s Order providing instructions to FWS employees, including prioritizing law enforcement activities. The FWS also published an [Advance Notice of Proposed Rulemaking](#) (ANPR), announcing the intent to solicit public comments as the FWS considers developing proposed regulations to authorize the take of migratory birds.

NMA Advertising Targets Anti-Mining Provisions in Reconciliation Package



The NMA last week launched a targeted advertising campaign in Washington to counter the anti-mining hardrock and coal provisions in the reconciliation package.

Working from the momentum of MINExpo INTERNATIONAL and keying off the infrastructure focus in Washington, the NMA team last week developed and distributed across social media [hardrock](#) and [coal](#) videos featuring mining equipment and operations that were promoted on LinkedIn, Twitter and Facebook, and targeted members and staff on Capitol Hill.

Separately, timed with this week's Senate Energy and Natural Resources hearing, we ran a [campaign on Politico and The Hill](#) with high-tech and electric vehicle images, calling out the punitive royalties and fees proposed in the reconciliation package. Similarly, we will round out the week with a set of coal-focused ads, also in Politico and The Hill, emphasizing the importance of reliability and affordability.

NMA and Third Party Voices

[Inside Sources](#) carries an op-ed from Rich Nolan, president and CEO of the National Mining Association, in which he argues jeopardizing energy affordability and reliability is exactly how not to responsibly manage the energy transition.

Rich Nolan is quoted by [World Coal](#) calling for caution managing the energy transition.

The NMA is mentioned in [Politico Pro](#)'s report on the Senate Energy and Natural Resources Committee hearing to consider updating the nation's law that governs hardrock mining on federal lands.

[World Coal](#) highlighted NMA's press release on the Senate Committee on Natural Resources Full Committee hearing to review administration of laws within the Federal Energy Regulatory Commission's (FERC's) Jurisdiction.

Mining and Energy News

[Bloomberg reported](#) on new iron-based battery technology that may be a cheaper alternative to lithium-ion battery technology.

[Politico reported](#) that the E.U. is planning to invest \$2 billion to curb its reliance on China's rare earth minerals.

[E&E News reported](#) that electric vehicle sales are booming in the U.S., with purchases nearly doubling over a year ago, and asks if a tidal wave is coming.

[The World Gold Council's recent report, *Gold and Climate Change: Decarbonizing Investment Portfolios*](#), looks at gold's role in the decarbonization process and examines the value of holding gold in a diversified portfolio to help reduce carbon footprints without sacrificing financial returns.

[The Salt Lake Tribune](#) reported that high uranium prices and new rare earth production capabilities at the White Mesa Mill could revive the aging facility in San Juan County, Utah.

[Quartz reported](#) on the national security implications of imports of rare earths magnets and a newly launched U.S. Commerce Department investigation, to determine the impact on national security from imports of neodymium-iron-boron (NdFeB) permanent magnets, the most widely manufactured rare earth magnet.

[Argus Media reported](#) that “coal-based generation in the U.S. is on track to end this quarter at its highest level in more than three years as warmer weather and higher natural gas prices drove up coal power demand.”

[Argus Media reported](#) that rail shipments of U.S. commodities are being delayed by domestic and global supply chain disruptions, including intermodal container congestion. “Coal shippers, amid a rare increase in demand, have tried to add more trains to increase shipments but the railroads have refused.”

[Mining.com](#) reported that a labor shortage and reluctance to open new mines has left U.S. coal companies struggling to keep up with surging global demand.

[Argus Media](#) reported that U.S. metal producers, from steelmakers to auto shredders, face rising electricity costs as natural gas prices surge to multi-year highs after years of relative stability at lower levels.

[Utility Dive](#) reported that nuclear power advocates are increasingly emphasizing the value of existing but financially struggling U.S. nuclear plants in curbing carbon emissions and addressing climate change.

[Argus Media reported](#) that U.S. coal receipts climbed 10 percent in July.

A key German power plant [ran out of coal](#) and OilPrice.com published: “Europe [turns to Russia](#) for more coal as energy prices skyrocket.”

Reuters published: “China energy crunch triggers shutdowns, [pleas for more coal](#).”

Bloomberg reported China’s coal shortage has contributed to [soaring solar panel prices](#) and published: “China’s coal miners told to produce [even if they’re over quotas](#).”

Goldman Sachs has [slashed its growth forecasts](#) for China because of the energy crisis.

The Globe and Mail published: “Surging heating costs. Electricity rationing. Is this what the [energy transition looks like?](#)”

Bloomberg published: “Global energy crisis is the [first of many](#) in the clean-power era.”



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