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

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Issue 18 | May 11, 2022

Brought to you by the National Mining Association

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## **This Week in the News**

With primary election season entering full swing and a U.S. Supreme Court news leak dominating the headlines, work critical to the mining industry continues behind the scenes on Capitol Hill and throughout the executive branch. 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.

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## **Safety Share**

The Electrical Safety Foundation International offers a [host of reference materials](#) for home, workplace, disaster and kids' electricity safety.

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## NMA Attends First White House IWG Meeting on Mining Regulations, Laws and Permitting



As we alerted you last week, the White House convened its first meeting of the Interagency Working Group on Mining Regulations, Laws and Permitting (IWG) on May 10, 2022, the 150<sup>th</sup> anniversary of the Mining Law. The NMA was invited as a stakeholder to the meeting, which was also attended by state and Tribal officials; labor, environmental, and end users; and officials from the White House and other federal departments and agencies. Notably, Director of the National Economic Council Brian Deese, Secretary of Interior Deb Haaland and Chair of the White House Council on Environmental Quality Brenda Mallory provided remarks during the meeting. The meeting was moderated by Sameera Fazili, the NEC Deputy Director. The meeting was off-the-record and closed to press participation.

Recall, the IWG was [launched](#) in February, following the recommendations of the [100-day supply chain reports](#) initiated by Executive Order 14017. A primary objective of the IWG is to develop recommendations for legislative and regulatory reform by November. While a number of topics were put before the participants, essentially the meeting provided an opportunity for stakeholders to identify what works and what does not work regarding the existing laws and regulations governing mining. The NMA's comments at the meeting pushed back on the notion that environmental and consultation requirements needed to be added to the Mining Law, noting that the law, especially the provisions on self-initiation and security of tenure, is designed to provide certainty and an orderly framework for the exploration and development of minerals on federal lands. Environmental concerns and consultation requirements are addressed by a comprehensive suite of federal, state and

local laws. Given the exponential growth in mineral demand due to electrification and EVs, the NMA also focused on the need to address the permitting inefficiencies that exacerbate our reliance on foreign minerals and impede our supply chain security. The NMA's permitting remarks and the need for quick solutions were seconded by a number of attendees, particularly automobile end users, other mining industry interests, union representatives and, oddly, the National Wildlife Federation.

At the conclusion of the meeting, federal representatives highlighted the Request for Information (RFI) the U.S. Department of the Interior has circulated requesting information on eleven questions issued by the IWG and the upcoming deadline for that RFI at the end of July. While they mentioned there will be future roundtables, they provided no further details.

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## House T&I Hearing - Continued Scrutiny of Railroad Service



This week the [U.S. House Transportation and Infrastructure Committee will hear testimony from the entire Surface Transportation Board](#) on their ideas to improve the efficiency and authority of the Board to better resolve freight rail conflicts. The NMA will be briefing congressional offices in advance of the hearing to convey our concerns. Two weeks ago, the NMA participated in the hearing and provided oral and [written](#) testimony of the issues NMA members are experiencing when it comes to unreliable rail service. The Board [issued](#) a recent Notice of Proposed Rulemaking (NPRM) to amend its emergency service rules to provide relief for shippers in situations that require immediate relief. The

Board proposes to clarify that it may act on its own initiative to direct emergency rail service, and to establish an accelerated process for acute service emergencies. In addition, the NPRM would create a new section to accelerate relief from an STB board member within 24-48 hours after receipt of the filing and exempts the parties from oral arguments before the STB. The NPRM also proposes an expedited timeframe for incumbent carriers to reply to a petition, as well as a rebuttal from the requesting party. The NMA plans to provide comments to the STB and has scheduled a call to discuss comment strategy on Thursday, May 12.

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## House Hearing on Grijalva Mining Law Bill

Tomorrow, the House Natural Resources Subcommittee on Energy and Mineral Resources will hold a hearing titled, “Reforming the Mining Law of 1872,” to consider Chairman Raul Grijalva’s (D-Ariz.) *Clean Energy Minerals Reform Act (H.R. 7580)*. This legislation is a reintroduction of Chairman Grijalva’s Mining Law changes such as 12.5 percent gross royalties on new mining, 8 percent gross royalties on existing mining, a 7 cent per ton dirt tax on displaced material from federal lands, changing the claims system to a leasing system, new tribal consultation, new environmental rules, and new withdrawal procedures. Chairman Grijalva is one year behind his usual introduction of this legislation each Congress as many of the provisions in his legislation were contained in the failed Build Back Better Act.

The legislative hearing will be divided into two witness panels with former Grijalva policy advisor, Steven Feldgus, former Grijalva staffer and now Deputy Assistant Secretary for Land and Minerals Management at the Department of the Interior, on the first panel. The second panel will include Jeffrey Stiffarm (President of the Fort Belknap Indian Community), Sam Kalen (William T. Schwartz Distinguished Professor of Law at the University of Wyoming), and James Chen (Vice President of Public Policy for Rivian Automotive, LLC) testifying on behalf of the majority, with Debra Struhsacker (Environmental Permitting and Government Relations Consultant and Co-founder and Director of the Women’s Mining Coalition) on behalf of the minority.

Ahead of the hearing, the NMA has worked extensively with minority committee staff to reeducate a bipartisan group of members on the committee about the General Mining Law, the negative impacts and punitive nature of Chairman Grijalva's legislation, and to remind them of the mining industries board principles on Mining Law. The NMA has also provided background materials, and submitted letters of opposition to H.R. 7580, and briefed congressional staff ahead of the hearing. The hearing is scheduled for 10:00 a.m. tomorrow and a link to the hearing and witness testimony can be found [here](#).

Chairman Grijalva's legislation is a principal priority for the NMA, and we will continue to work against its enactment.

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## SEC Extends Comment Period on Climate Disclosure Rule - Bowing to Industry Pressure

On May 9, the U.S. Securities and Exchange Commission (SEC) [extended](#) the comment period on its proposed rule mandating climate-related disclosures. Comments are now due on June 17, 2022. While the NMA [requested](#) to hold the comment period open until July 11, 2022, we are pleased that the SEC rightfully granted an additional 28 days and believe this will provide us the appropriate amount of time to develop comprehensive association comments. The NMA recently shared a preliminary outline of comments with members. If you did not receive the outline and are interested in participating in our comment drafting, please contact Tawny Bridgeford at [tbridgeford@nma.org](mailto:tbridgeford@nma.org).

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## White House Releases Federal Permitting Action Plan for Infrastructure and Plans for Critical Minerals



This morning, the Biden-Harris administration [announced](#) a new federal [permitting action plan](#) to strengthen and accelerate federal permitting and environmental reviews by fully leveraging existing permitting authorities as well as new provisions in the Bipartisan Infrastructure law. Specifically, the plan establishes that federal environmental reviews and permitting processes will be effective, efficient, and transparent while guided by the best science, and shaped by early and meaningful public input. The plan also includes timeline goals with relevant milestones for projects and instructs federal agencies to prioritize available resources to address workforce needs to implement the plan. In the announcement, the administration highlights the interagency working group on mining reform and reiterates that it will work to reform outdated permitting laws and regulations,

such as the Mining Law of 1872, to establish stronger environmental sustainability, safety, tribal consultation, and community engagement standards. In addition, sector-specific teams of experts marshaled by the White House Climate Policy Office and the National Economic Council have been convened to advance the responsible build out and modernization of infrastructure by facilitating coordination on siting, permitting, supply chain, and related issues. Notably, one of the sector-specific teams is responsible for cross-agency coordination on the production and processing of critical minerals and is required to provide a charter describing strategies for promoting the effectiveness and timeliness of permitting to the Federal Permitting Improvement Council within 60 days.

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## **DOD-NMA Webinar on Funding for Mineral Production and Processing Under the DPA**

The NMA will host a webinar on Tuesday, May 24, from 11:30am – 12:30pm ET with representatives from the Department of Defense (DOD) Industrial Policy Office (IPO) for interested NMA members to provide additional information and answer questions about the funding opportunities through Presidential Determination 2022-11 to use the Defense Production Act for new domestic mining and processing for strategic and critical materials for battery technologies. Since last month's Presidential Determination (PD) 2022-11, the NMA has been working with the DOD to set up this opportunity for NMA members to hear directly from the DOD on the program and specifics related to the application process and answer questions on the new funding. Please find links to the NMA's memos on the Presidential Determination [here](#) and [here](#). To attend the upcoming webinar, please email Mary Katherine at [mkirlin@nma.org](mailto:mkirlin@nma.org) to confirm your interest and to receive additional details. The administration is moving quickly to fund this new opportunity as well. Last night the \$40 billion Ukrainian aid bill which passed the House contained \$500 million in new funding for this opportunity. Please contact NMA's Legal and Regulatory staff or NMA's Government Affairs staff for more information.

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## EPA Extends CWA Hazardous Substance Worst Case Discharge Planning Comment Deadline

The U.S. Environmental Protection Agency (EPA) recently extended the comment deadline for its proposed rule concerning worst case discharge planning for Clean Water Act (CWA) hazardous substances. The new comment deadline is July 26, 2022. The NMA continues to draft comments informed by member input received so far and will share next steps soon.

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## EPA and Army Corps Announce Regional WOTUS Roundtable Schedule



The U.S. EPA and U.S. Army Corps of Engineers (Corps) finally announced the [schedule](#) for the 10 regional roundtables to discuss their “waters of the United States” (WOTUS) rule. The first roundtable was held on May 9, and the remaining nine roundtables will be held between the end of May and the end of June. All roundtables will be livestreamed and recorded. The rushed process, lack of transparency about how participants were evaluated and selected for these roundtables, and exclusive rather than inclusive stakeholder engagement process has also drawn intense criticism from Capitol Hill. Most recently, House Minority Transportation and Infrastructure Ranking Member Sam Graves (R-Mo.)

and Water Resources and Environment Subcommittee Ranking Member David Rouzer (R-N.C.) sent a [letter](#) to the agencies expressing these concerns and requesting clarity on key questions.

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## **EPA Staff Recommends Retaining the Ozone NAAQS**

In a surprise move, the U.S. EPA [released](#) an [external review draft](#) of the “Policy Assessment for the Reconsideration of the Ozone National Ambient Air Quality Standards” (NAAQS). Spanning more than 1,000 pages, the draft Policy Assessment reconsiders the 2020 decision to retain the 70 parts per billion primary ozone NAAQS. Significantly, EPA staff “conclude it is appropriate in this reconsideration of the 2020 decision that consideration be given to retaining the current primary standard of 0.070 ppm O<sub>3</sub>, as the fourth-highest daily maximum 8-hour concentration averaged across three years, without revision.” EPA staff “have not identified any potential alternative standards for consideration.” For the secondary NAAQS, EPA staff “conclude that the currently available evidence and quantitative exposure/risk information does not call into question the protection afforded by the current secondary standard, such that it is appropriate to consider retaining the current standard without revision.” Again, EPA staff “have not identified any potential alternative standards for consideration.” Comments on the draft Policy Assessment are due by May 31, 2022. The NMA is working with a broad industry coalition to file comments supporting these decisions. Separately, EPA briefed the Clean Air Scientific Advisory Committee (CASAC) on Apr. 29, 2022, on the agency’s recommendations. CASAC will peer review the draft Policy Assessment starting June 8, 2022.

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## **DOJ Reinstates Supplemental Environmental Projects Guidance for Environmental Settlements**

The U.S. Department of Justice (DOJ) reinstated a policy and issued an interim final rule to resume the use of supplemental environmental projects as part of settlement agreements for environmental damages. The decades long policy was revoked under the previous administration, and a rule was established to prohibit the use of supplemental environmental projects. As a result of the reinstatement, DOJ can again allow settlements and payments to nongovernmental third parties who were not victims or parties to the lawsuits. The DOJ also issued an interim final rule withdrawing the prohibition of supplemental environmental projects. Comments are due Monday, July 11.

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## **Senate Hearing Next Week to Explore International Examples of Permitting Reform**

On Tuesday, May 17, the Senate Energy and Natural Resources Committee (ENR) will hold a resource efficiency hearing related to Canadian energy and mining. Although the hearing has yet to be noticed and details are still being finalized, the NMA has been working with committee staff to provide witness recommendations and background materials that compare and contrast the differences between permitting timeframes and mine development in the U.S. versus Canada. Motivation for the hearing comes after ENR Chairman Joe Manchin (D-W.Va.) recently [met](#) with Alberta Premier Jason Kenney to discuss energy issues between the two countries. The NMA will continue to support and track developments related to this hearing and will provide relevant updates as they become available.

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## **Oklahoma Governor Signs Bill to Counter Discriminatory Lending**



On May 9, Oklahoma Governor Kevin Stitt signed House Bill 2035, which requires the treasurer to maintain “a list of financial companies that boycott energy companies.” Governmental entities, including pension funds, are to divest themselves of investments in those institutions unless the institutions show they are not discriminating against fossil fuel-related companies. The bill allows exceptions, though, in cases in which divestiture would not be in the state’s best financial interests.

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## **NMA Holds Successful Spring Board Meeting in Sarasota**

Last week, the NMA held a successful Spring Board Meeting in Sarasota, Fla. We appreciate all who were able to attend, in person or virtually, and listen to our noteworthy speakers including West Virginia Sen. Shelley Moore Capito, Ranking Member of the U.S. Senate Environment and Public Works; Council on Environmental Quality Chairwoman Brenda Mallory; Director Jigar Shah, U.S. Department of Energy Loan Program Office; Montana Attorney General Austin Knudson; Rep. Pete Stauber, Ranking Member of the U.S. House Energy and Minerals Subcommittee; and Senator Kevin Cramer (R-N.D.). Materials from the Board Meeting are available [here](#).



Just prior to the meeting, members had the opportunity to enjoy a golf outing, with Bobby, Robert and Tony Stenger from Cincinnati Mining Machinery Co., along with Joe Becko from Cummins Sales and Service, taking home the win from the scramble. Congratulations to all!

## NMA and Third Party Voices

[Rich Nolan is quoted in an Associated Press](#) story picked up by the [Washington Post](#), and others, noting that President Joe Biden is turning to a Cold War-era law to boost production of lithium and other minerals used to power electric vehicles, but experts say the move by itself is unlikely to ensure the robust domestic mining Biden seeks as he promotes cleaner energy sources.

[North of 60 Mining News](#) quotes Rich Nolan in a report on the history of the General Mining Law.

[The Washington Post](#) quotes Katie Sweeney on Rep. Grijalva's proposed mining law legislation, saying "It's the wrong legislation at the wrong time."

[E&E Daily](#) quotes Katie Sweeney in a story noting that Democrats and Republicans alike

say now could be the time to overhaul the 150-year-old federal law governing mining, but finding enough common ground to strike a deal will prove challenging.

[The Daily Caller](#) also quotes the NMA on Grijalva's legislation noting that "This legislation does not represent a reasonable compromise and will only ensure our mineral import reliance deepens, inevitably increasing our reliance on Chinese metals and materials and other unfriendly or deeply unstable places."

The NMA's Katie Mills is quoted in and included in video from [RFD TV](#) on the recent Surface Transportation Board hearing concerning delays and costs impacting their ability to ship their product.

The NMA is quoted in an [Inside Sources](#) piece on President Joe Biden's commitments on green energy and how the administration's mining policy needed to provide the materials for these energy sources may undermine it.

The NMA is mentioned in a [Washington Examiner](#) op-ed by Sen. Shelley Moore Capito in which she argues the United States has a permitting problem.

From our third parties, [Grand Junction Sentinel](#) (Colo.), [Wahpeton Daily News](#) (N.Dak.), [Johnstown Tribune Democrat](#) (Pa.), [Deming Headlight](#) (N.M.), [Yahoo! News](#) (USA), [Northwest Signal](#) (Ohio), [Bryan Times](#) (Ohio), [Pottstown Mercury](#) (Pa.), [Exton Daily Local](#) (Pa.), [Swarthmore Times Herald](#) (Pa.), [Lansdale Reporter](#) (Pa.), [Delaware County Daily Times](#) (Pa.), [Mainline Times and Suburban](#) (Pa.), [Yahoo News](#) (USA), [Wichita Falls Times Record News](#) (Texas), [The Trentonian](#) (N.J.), [St. Joseph News Press](#) (Mo.), [Colorado Springs Gazette](#) (Colo.), [Roanoke Times](#) (Va.), [MSN.com](#) (USA), [Elko Daily Free Press](#) (Nev.), [Casper Star Tribune](#) (Wyo.) and [Waco Tribune Herald](#) (Texas) all ran 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 we need to rethink the role existing coal plants can play in getting us to our energy future.

Also from our third parties, the [Nebraska Examiner](#) (Neb.) carries an op-ed by Barry

Butterfield, a civil engineer who worked in the public and private sector for over 40 years, in which he argues we must make a major push to create new uranium mines and reopen old mines that have been closed, such as Crow Butte.

[Inside Sources](#) (D.C.), [Northwest Indiana Times](#) (Ind.) and [Nashua Telegraph](#) (N.H.) ran an op-ed by Matthew Kandrach, president of Consumer Action for a Strong Economy, a free-market advocacy organization, in which he argues embracing the value of the existing coal fleet as a bridge to the future — not as a problem to be solved — is just the kind of pragmatic policy pivot we need.

## Mining and Energy News

[E&E News PM](#) reported that President Joe Biden is asking Congress for more money to help Ukraine — and the U.S. mining industry.

[Bloomberg Hyperdrive](#) reported that Bill Ford and Mary Barra offer assurances their electric vehicles are well-sourced — at least for the next few years.

[Bloomberg](#) and the [Washington Post](#) carry an op-ed which argues the future of U.S.-made electric-vehicle batteries might be found in a modest white shed in Tamarack, Minnesota.

[Visual Capitalist](#) graphically illustrated the key minerals in an electric vehicle battery.

USGS' fourth quarter 2021 mineral production commodities [report](#) shows that base metals production, except lead and zinc, increased in 2021. Production of construction-related materials increased 5 percent. Copper production was slightly higher, while gold and silver production were both down a bit.

The [International Lead Zinc Study Group](#) (ILZSG) reported that global zinc mine production is forecast to increase 3.9 percent this year to 13.28 million metric tons, driven by anticipated production increases

in Australia, India, Kazakhstan, Mexico, South Africa and the U.S.

The World Gold Council [reported](#) that the global gold market “saw a solid start to 2022, with first quarter demand up 34 percent year-on-year, thanks to strong ETF flows, reflecting gold’s status as a safe haven investment during times of geopolitical and economic uncertainty.”

[S&P Global's](#) latest analysis forecasts nonferrous global exploration budget growth of between 5 percent and 15 percent in 2022, up from \$11.24 billion in 2021. A primary factor is strengthening metal markets, driven in part by increasing investor interest in energy transition metals and precious metals.

[The Houston Chronicle](#) reported that mining lithium and other metals needed for clean energy proves to be a hard sell politically.

[EIA's](#) recent quarterly domestic uranium production report shows U.S. production of uranium concentrate in the first quarter of 2022 totaled 9,946 pounds, down slightly from the fourth quarter of 2021. This quarter’s production occurred at three facilities in Wyoming.

[New York Times](#) reported that uranium was left out of the U.S. Russian energy import ban since the U.S. relies on it to fuel more than 90 nuclear reactors around the country. That dependence on Russia is breathing life into ambitions to resurrect the uranium industry around the American West. And [Reuters](#) reported on U.S. Energy Secretary Jennifer Granholm saying that the U.S. was working on a strategy to ensure steady uranium supply and that the country should not be sending any more money to Russia for the nuclear reactor fuel.

[EnergyWire](#) reported that researchers say they have developed a new heat treatment that could double the yields of rare earth elements extracted from waste, potentially improving the profitability of the recycling process.

[Greenwire](#) reported that Arizona has approved a water permit for the Pinyon Plain uranium mine near the Grand Canyon – a mine that has been under consideration for

years, but never opened. It is now more economical due to higher uranium prices and war-related supply constraints.

[Argus](#) reported that U.S. utilities are struggling to build up coal stockpiles ahead of summer in the midst of what has become a full-blown rail service crisis.

[Argus](#) reported that U.S. coal exports declined in March to 3.78 million short tons from a relatively high year-earlier level. The decrease was likely due to rail transportation issues and partial operations at Curtis Bay Terminal in Baltimore after the explosion and conveyor belt damage late last year.

[Reuters](#) reported on research indicating that the global capacity of power plants fueled by coal, rose nearly 1 percent last year as the world recovered from the COVID-19 pandemic.

[The International Energy Agency \(IEA\)](#) announced last week that they are convening a high-level advisory group to provide guidance on a report delivering a secure and affordable phase-out of coal emissions.

[Visual Capitalist](#), using IEA data, illustrated how despite 40 nations agreeing to phase out coal at the COP26 conference last year, in 2021 coal-fueled electricity generation reached all-time highs globally, showing that eliminating coal from the energy mix will not be a simple task.

[Washington Examiner](#) reported that India announced this week that it is boosting its coal production to record highs, seeking to secure supplies and counteract the adverse effects of a nationwide fuel shortage, which has strained its power supply and touched off rolling blackouts during a blistering heatwave.

[S&P Global](#) reported that as many investors were turning away from coal, others saw an opportunity — and are now being rewarded.

[EnergyWire](#) reported that how PJM Interconnection handles the issue of capacity value could affect everything from coal plant retirements to battery deployment to the reliability of the power grid. Capacity value attempts to measure the extent to which different types of

energy resources — from coal to nuclear to solar — can be counted on to provide power when it is most needed.

[EnergyWire](#) reported that Northern Indiana Public Service Co. said it will delay retirement of its largest coal-fueled power plant by two years because a Commerce Department investigation is leading to supply chain uncertainty for solar projects needed as a replacement energy source.

[EnergyWire](#) reported that Rainbow Energy Center has acquired North Dakota's largest coal plant, Coal Creek Station, from Great River Energy.

POWER profiled University of Wyoming efforts to help define the [future of coal](#).

S&P Global predicted that soaring global demand for natural gas and coal could [leave U.S. coal consumers](#) short this summer.

Grid operators in Texas and the Midwest issued warnings of potential [power supply shortfalls](#) this summer. California also warned of summer [electricity shortages](#). The Wall Street Journal published: "Electricity shortage warnings [grow across U.S.](#)"

[New York Times](#) and [Bloomberg](#) reported U.S. electricity consumers will likely see significant rate increases in coming months.

## Mining Action Strategy Team

Access the latest snapshot of the NMA's ongoing regulatory efforts. The MAST tracker is updated weekly to the extent new actions have occurred.

Current password: Mining

[Mining Action Strategy Team](#)

## PDAC Returns



**2022**

**THE WORLD'S PREMIER  
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& MINING CONVENTION**

The Prospectors & Developers Association of Canada (PDAC) has asked the NMA to remind you that PDAC's annual Convention will be back in Toronto, from June 13-15, as well as an online portion from June 28-29. The PDAC Convention provides a platform for experts to connect and talk, learn and collaborate about the opportunities and challenges faced by the industry. For the latest information on #PDAC2022 head to

[www.pdac.ca/convention](http://www.pdac.ca/convention).

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